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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	10/715,243		
Filing Date	11/18/2003		
First Named Inventor	Mark N. Heflin		
Art Unit	3644		
Examiner Name	Dinh, Tien Quang		
Total Number of Pages in This Submission	3	Attorney Docket Number	991316

ENCLOSURES <i>(Check all that apply)</i>			
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">Remarks</div>	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">Petition Under Rule 1.181(a)(3) and MPEP 706.07(c) To Withdraw Final Rejection</div>	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Alan P. Klein
Signature	
Date	7/13/2005

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Diane R. Winter	
Signature		Date
		7/13/2005

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JUL 15 2005

PTO/SB/17 (12/99)

Approved for use through 09/30/2000. OMB 0651-0032
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FEE TRANSMITTAL for FY 2005

Patent fees are subject to annual revision.
Small Entity payments must be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12. See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$)
130**Complete if Known**

Application Number	10/715,243
Filing Date	11/18/2003
First Named Inventor	Mark N. Heflin
Examiner Name	Dinh, Tien Quang
Group / Art Unit	3644
Attorney Docket No.	991316

METHOD OF PAYMENT (check one)

- The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number
50-1340

Deposit Account Name

Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

- Payment Enclosed:

Check Money Order Other

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101	690	201 345 Utility filing fee	
106	310	206 155 Design filing fee	
107	480	207 240 Plant filing fee	
108	690	208 345 Reissue filing fee	
114	150	214 75 Provisional filing fee	

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

Total Claims	-20** =	X	=	Fee Paid
Independent Claims	- 3** =	X	=	
Multiple Dependent				

** or number previously paid, if greater; For Reissues, see below

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description
103	18	203 .9 Claims in excess of 20
102	78	202 39 Independent claims in excess of 3
104	260	204 130 Multiple dependent claim, if not paid
109	78	209 39 ** Reissue independent claims over original patent
110	18	210 9 ** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105	130	205 65 Surcharge - late filing fee or oath	
127	50	227 25 Surcharge - late provisional filing fee or cover sheet	
139	130	139 130 Non-English specification	
147	2,520	147 2,520 For filing a request for reexamination	
112	920*	112 920* Requesting publication of SIR prior to Examiner action	
113	1,840*	113 1,840* Requesting publication of SIR after Examiner action	
115	110	215 55 Extension for reply within first month	
116	380	216 190 Extension for reply within second month	
117	870	217 435 Extension for reply within third month	
118	1,360	218 680 Extension for reply within fourth month	
128	1,850	228 925 Extension for reply within fifth month	
119	300	219 150 Notice of Appeal	
120	300	220 150 Filing a brief in support of an appeal	
121	260	221 130 Request for oral hearing	
138	1,510	138 1,510 Petition to institute a public use proceeding	
140	110	240 55 Petition to revive - unavoidable	
141	1,210	241 605 Petition to revive - unintentional	
142	1,210	242 605 Utility issue fee (or reissue)	
143	430	243 215 Design issue fee	
144	580	244 290 Plant issue fee	
122	130	122 130 Petitions to the Commissioner	
123	50	123 50 Petitions related to provisional applications	
126	240	126 240 Submission of Information Disclosure Stmt	
581	40	581 40 Recording each patent assignment per property (times number of properties)	
146	690	246 345 Filing a submission after final rejection (37 CFR § 1.129(a))	
149	690	249 345 For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

Other fee (specify) _____

Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$)**130****SUBMITTED BY**

Name (Print/Type)	Alan P. Klein	Registration No. (Attorney/Agent)	26,926	Telephone	703-696-8113
Signature	<i>Alan P. Klein</i>	Date	07/13/2005		

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Army Case No. 991316

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:
MARK N. HEFLIN
JAMES B. STEWART
SAMUEL L. KAESEMEYER
Serial No. 10/715,243
Filed: 11/18/2003
For: NON-PYROTECHNIC
REMOTE-CONTROLLED
PARACHUTE JETTISON DEVICE

Art Unit No. 3644
Examiner: Dinh, Tien Quang
Confirmation No. 4994

PETITION UNDER RULE 1.181(a)(3)
AND MPEP 706.07(c)
TO WITHDRAW FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your petitioner hereby requests withdrawal of the finality of the Final Rejection dated 06/06/2005. There has been a proper request for consideration (under Rule 1.111) and a repeated action by the Examiner.

Remarks begin on page 2 of this paper.

07/18/2005 SHASSEN1 00000049 501340 10715243
01 FC:1464 130.00 DA

Application No. 10/715,243
Petition dated 07/13//2005
Reply to Office Action of 06/06/2005

REMARKS

Applicants request withdrawal of the finality of the Final Rejection dated 06/06/2005, in the above-entitled application.

The Final Rejection is premature. It was made in the second action although that action included a new ground of rejection neither necessitated by applicants' amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Specifically, claims 1, and 6-13, were originally rejected as being unpatentable under 35 USC 103(a) over Underwood et al. in view of Kenzie.

Claims 1, and 6-13, have now been rejected on a new ground as being unpatentable under 35 USC 103(a) over Underwood et al. in view of Kenzie and Tillman.

Claims 1, and 6-13, have never been amended.

MPEP 706.07(a) clearly states that a second action on the merits in any application will not be made final where the examiner introduces a new ground of rejection neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The reason for this is to leave no doubt among Examiners that they must state clearly and specifically any objections (the prime facie case) to patentability, and give the

applicant fair opportunity to meet those objections with evidence and argument. In re Oetiker, 24 USPQ 2d 1443, 1447 (Fed. Cir. 1992) (Plager, J., concurring).

For the foregoing reasons, it is submitted that the Final Rejection is premature, and withdrawal of the finality of the rejection is respectfully requested.

Respectfully submitted,

Mark N. Heflin
James B. Stewart
Samuel L. Kaesemeyer



ALAN P. KLEIN
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